

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of: No. 06F-BDQ44-BNK

3 **THE MONEY SOURCE, L.L.C. AND**
4 **ISSAM M. HABBO, OWNER**
4 4383 North 75th Street, Suite 103
5 Scottsdale, AZ 85251

CONSENT ORDER

6 Petitioners.

7 On April 18, 2006, the Arizona Department of Financial Institutions ("Department") issued a
8 Notice of Hearing alleging that Petitioners had violated Arizona law. Wishing to resolve this matter
9 in lieu of an administrative hearing, and without admitting liability, Petitioners do not contest the
10 following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

11 **FINDINGS OF FACT**

12 1. Petitioner The Money Source, L.L.C. (hereinafter "TMS") is an Arizona limited liability
13 company authorized to transact business in Arizona as a mortgage broker, license number
14 MB 0903450, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of TMS' business is that
15 of making, negotiating, or offering to make or negotiate loans secured by Arizona real property,
16 within the meaning of A.R.S. § 6-901(6).

17 2. Petitioner Issam M. Habbo ("Mr. Habbo") owns TMS. Mr. Habbo is authorized to
18 transact business in Arizona as a mortgage broker within the meaning of A.R.S. § 6-903(E).

19 3. An October 31, 2005 examination of TMS, conducted by the Department, revealed that
20 TMS and Mr. Habbo:

21 a. Failed to obtain at least two (2) branch office licenses from the Superintendent before
22 making, negotiating, or offering to make or negotiate mortgage loans at branch offices,
23 specifically:

24 i. Branch #8—originated four (4) mortgage loans before being licensed by the
25 Department;

26 ...

- 1 ii. Branch #9—originated one (1) mortgage loan before being licensed by the
2 Department; and
- 3 iii. Branch #0105115—continued to originate three (3) mortgage loans from its
4 2310 North 15th Avenue location after notifying the Department that the
5 branch address had changed;
- 6 b. Transferred or assigned their mortgage broker branch office licenses to their branch
7 managers, specifically:
- 8 i. Failed to assume responsibility and liability for branch office leases that are
9 rightfully the responsibility and liability of Petitioners. All branch office leases
10 were negotiated, signed, and/or guaranteed by certain branch managers;
- 11 ii. Failed to maintain control over bank accounts by enabling certain branch
12 managers, who are signers on Petitioners' bank accounts, to write checks
13 captioned as "Owner's Draw" to themselves in amounts ranging from
14 \$10,000.00 to \$15,000.00. The aforementioned branch managers are not
15 designated as "owners" on any documents that were provided to the
16 Department;
- 17 iii. Failed to maintain control over branch bank accounts by allowing branch
18 managers to write payroll checks and/or advances to themselves and to
19 reimburse themselves for questionable expenses; and
- 20 iv. Failed to maintain control over the payment of branch expenses resulting in
21 late payments to National Mortgage Reporting and resulting in a "Deactivation
22 Notice" that, ultimately, indicates a lack of control and lack of oversight by
23 Petitioners and their Responsible Individual;
- 24 c. Used two (2) unlicensed names when advertising or soliciting mortgage business,
25 specifically:
- 26 i. The "TMS Mortgage" advertisement; and

- 1 ii. "The Money Source of America" advertisement;
- 2 d. Failed to use their name and license number as issued on their principal place of
- 3 business license when advertising or soliciting mortgage business, specifically:
- 4 i. Petitioners' license number is missing from "The Money Source of America"
- 5 website advertisement;
- 6 ii. Petitioners' principal place of business license number is missing from the
- 7 "TMS Mortgage" advertisement; and
- 8 iii. Petitioners failed to correct this violation from their previous examination;
- 9 e. Failed to conduct the minimum elements of reasonable employee investigations
- 10 before hiring employees, specifically:
- 11 i. Failed to collect and review all of the documents authorized by the
- 12 Immigration and Control Act of 1986 for at least ten (10) employees;
- 13 ii. Failed to obtain a completed "I9" (Employment Eligibility Verification Form)
- 14 when hiring at least twenty three (23) employees;
- 15 iii. Failed to obtain a completed employment application before hiring at least one
- 16 (1) employee;
- 17 iv. Failed to obtain a signed statement attesting to all of an applicant's felony
- 18 convictions, including detailed information regarding each conviction when
- 19 hiring at least thirty one (31) employees;
- 20 v. Failed to consult with the applicant's most recent or next most recent employer
- 21 before hiring at least twenty five (25) employees;
- 22 vi. Failed to inquire regarding an applicant's qualifications and competence for
- 23 the position before hiring at least twenty five (25) employees;
- 24 vii. Failed to obtain a credit report before hiring at least twenty six (26) employees;
- 25 and
- 26 ...

- 1 viii. Failed to conduct a further investigation of nine (9) employees with derogatory
2 credit reports;
- 3 f. Contracted with or paid compensation to unlicensed, independent contractors,
4 specifically:
- 5 i. Petitioners paid \$1,480.00 to Marisol Cabrera for telemarketing services in
6 April, May, and June of 2005;
- 7 ii. Petitioners paid \$120.00 to Samantha Ramirez for telemarketing services in
8 April of 2005; and
- 9 iii. Neither Marisol Cabrera nor Samantha Ramirez are licensed as a mortgage
10 broker or mortgage banker by the Department;
- 11 g. Failed to keep and maintain, at all times, correct and complete records, specifically:
- 12 i. Petitioners have not maintained a file containing every piece of advertising;
- 13 1. A review of bank records and invoices revealed that Petitioners
14 placed several advertisements in "Clip" magazine, which were
15 not made available to the examiner for review;
- 16 h. Failed to update and reconcile records, specifically:
- 17 i. Petitioners' bank accounts incurred two (2) overdrafts on February 22, 2005
18 for \$28.19 and on May 13, 2005 for \$1,027.29;
- 19 i. Failed to maintain a list of all executed loan applications or executed fee agreements,
20 specifically:
- 21 i. Branches 3, 4, 6, and 7—No provision for entering the application date;
- 22 ii. Branches 3, 4, 5, 6, and 7—No provision for the amount of initial loan request;
23 and
- 24 iii. Branches 1, 3, 4, 5, 6, 7, 8, and 9—No provision for disposition. Declined and
25 withdrawn applications were not included;
- 26 ...

1 j. permitted eleven (11) borrowers to sign regulated documents containing blank spaces
2 without first obtaining the proper written authorization from the borrowers to complete the blank
3 spaces;

4 k. Failed to comply with the disclosure requirements of Title I of the Consumer
5 Protection Act (15 U.S.C. §§ 1601-1666j); the Real Estate Settlement Procedures Act (12 U.S.C.
6 §§ 2601-2617); and the regulations promulgated under these acts, specifically:

7 i. Failed to disclose the yield spread premium ("YSP") on the good faith
8 Estimate ("GFE") to thirteen (13) borrowers;

9 ii. Failed to disclose the application fee on the GFE to one (1) borrower; and

10 iii. Disclosed \$2,464.00 as the loan origination fee on the initial GFE, but charged
11 \$4,160.00 as the final origination fee;

12 l. Made a false promise or misrepresentation or concealed an essential or material fact
13 in the course of the mortgage broker business, specifically:

14 i. Exceeded the one quarter of one percent (.25%) Truth in Lending tolerance
15 provision in connection with fifteen (15) mortgage loan applications; and

16 ii. Failed to answer question number eight on the responsible individual
17 questionnaire. "Sam's Q Print" is located in Petitioners' building and it is
18 owned by Issam M. Habbo II, who is the son of the responsible individual and
19 owner of TMS;

20 m. Failed to use a statutorily correct written fee agreement;

21 n. Failed to ensure that the Responsible Individual maintained a position of active
22 management and failed to ensure that the Responsible Individual was knowledgeable about
23 Arizona activities as evidenced from the number and severity of the violations noted in
24 Petitioners' October 31, 2005 examination report;

25 o. Failed to furnish information to the Department within a reasonable time;

26 ...

- 1 i. Petitioners failed to provide the Department with copies of checks and invoices
2 that were requested by a November 14, 2005 deadline. The Department has
3 not received these documents; and
- 4 p. Used an unlawful appraisal disclosure that imposes a 90-day limit upon borrowers to
5 request transfer or return of an appraisal for which they had already paid.

6 4. Based upon the above findings, the Department issued and served upon TMS and Mr.
7 Habbo an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order
8 ("Cease and Desist Order") on February 22, 2006.

9 5. On March 22, 2006, the Department received a a Request For Hearing from Petitioners,
10 appealing the Cease and Desist Order.

11 CONCLUSIONS OF LAW

12 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to
13 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
14 rules, and regulations relating to mortgage brokers.

15 2. By the conduct set forth in the Findings of Fact, TMS and Mr. Habbo violated the
16 following:

- 17 a. A.R.S. § 6-904(F) by engaging in mortgage loan activity at unlicensed branch offices;
18 b. A.R.S. § 6-903(O) by transferring or assigning their mortgage broker license;
19 c. A.R.S. § 6-903(M) by using unlicensed names when advertising or soliciting
20 mortgage business;
21 d. A.R.S. § 6-903(M) by not using their name and license number as issued on their
22 principal place of business license when advertising or soliciting mortgage business;
23 e. A.R.S. § 6-903(N) and A.A.C. R20-4-102 by failing to conduct the minimum
24 elements of reasonable employee investigations before hiring employees;
25 f. A.R.S. § 6-909(B) and A.A.C. R20-4-102 by paying compensation to unlicensed,
26 independent contractors;

- g. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B) by failing to keep and maintain, at all times, correct and complete records;
- h. A.A.C. R20-4-917(C) by failing to update and reconcile records;
- i. A.A.C. R20-4-917(B)(1) by failing to maintain a list of all executed loan applications or executed fee agreements;
- j. A.R.S. § 6-909(A) and A.A.C. R20-4-921 by permitting borrowers to sign regulated documents containing blank spaces without first obtaining the proper written authorization from the borrowers to complete the blank spaces;
- k. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to issue proper federal disclosures;
- l. A.R.S. § 6-909(L) by making a false promise or misrepresentation or concealing an essential or material fact in the course of the mortgage broker business;
- m. A.R.S. § 6-906(C) by failing to use a statutorily correct written fee agreement;
- n. A.R.S. § 6-903(E) and A.A.C. R20-4-102 by failing to ensure that the Responsible Individual maintained a position of active management and failing to ensure that the Responsible Individual was knowledgeable about Arizona activities;
- o. A.R.S. § 6-905(A) by failing to furnish information to the Department within a reasonable time; and
- p. A.R.S. § 6-906(C) by using an unlawful appraisal disclosure that imposes a 90-day limit upon borrowers to request transfer or return of an appraisal for which they had already paid.

3. The violations of applicable laws set forth above constitute grounds for the issuance of an order directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S. § 6-137.

4. The violations of applicable laws set forth above constitute grounds for the imposition of a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to A.R.S. § 6-132.

ORDER

1. TMS and Mr. Habbo shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. TMS and Mr. Habbo:

- a. Shall not engage in mortgage loan activity at unlicensed branch offices;
- b. Shall not transfer or assign their mortgage broker license;
- c. Shall not use unlicensed names when advertising or soliciting mortgage business;
- d. Shall use their name and license number as issued on their principal place of business license when advertising or soliciting mortgage business;
- e. Shall conduct the minimum elements of reasonable employee investigations before hiring employees;
- f. Shall not pay compensation to unlicensed, independent contractors;
- g. Shall keep and maintain, at all times, correct and complete records;
- h. Shall update and reconcile records;
- i. Shall maintain a complete list of all executed loan applications or executed fee agreements;
- j. Shall not permit borrowers to sign regulated documents containing blank spaces without first obtaining the proper written authorization from the borrowers to complete the blank spaces;
- k. Shall issue proper federal disclosures;
- l. Shall not make false promises or misrepresentations or conceal an essential or material fact in the course of the mortgage broker business;
- m. Shall use a statutorily correct written fee agreement;
- n. Shall ensure that the Responsible Individual maintains a position of active

1 management and shall ensure that the Responsible Individual is knowledgeable about
2 Arizona activities;

3 o. Shall furnish information to the Department within a reasonable time; and

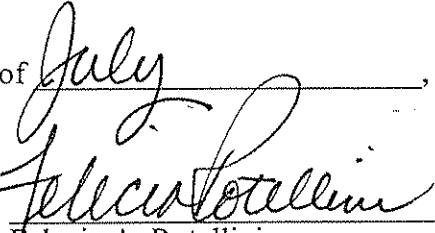
4 p. Shall not use an unlawful appraisal disclosure that imposes a 90-day limit upon
5 borrowers to request transfer or return of an appraisal for which they had already
6 paid.

7 2. Issam M. Habbo and The Money Source, L.L.C. shall immediately pay to the Department
8 a civil money penalty in the amount of fifteen thousand dollars (\$15,000.00). Issam M. Habbo and
9 The Money Source, L.L.C. are jointly and severally liable for payment of the civil money penalty.

10 3. The provisions of this Order shall be binding upon Petitioners, their employees, agents,
11 and other persons participating in the conduct of the affairs of Petitioners.

12 4. This Order shall become effective upon service, and shall remain effective and
13 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
14 or set aside.

15 SO ORDERED this 20th day of July, 2006.

16
17 
18 Felecia A. Rotellini
Superintendent of Financial Institutions

19 **CONSENT TO ENTRY OF ORDER**

20 1. Petitioners acknowledge that they have been served with a copy of the foregoing
21 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
22 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

23 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
24 foregoing Findings of Fact, Conclusions of Law, and Order.

25 3. Petitioners state that no promise of any kind or nature has been made to induce them
26 to consent to the entry of this Order, and that they have done so voluntarily.

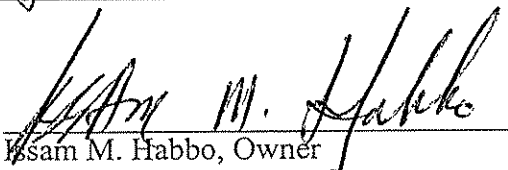
1 4. Petitioners agree to cease from engaging in the violative conduct set forth in the
2 Findings of Fact above.

3 5. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent
4 is solely to settle this matter and does not preclude this Department, any other agency or officer of
5 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
6 the future.

7 6. Issam M. Habbo, Owner, The Money Source, L.L.C., on behalf of The Money
8 Source, L.L.C. and himself represents that he is the Owner, and that, as such, has been authorized by
9 The Money Source, L.L.C. to consent to the entry of this Order on its behalf.

10 7. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest
11 the validity of the Notice of Hearing.

12 DATED this 29th day of June, 2006.

13
14 
15 Issam M. Habbo, Owner
The Money Source, L.L.C.

16
17 ORIGINAL of the foregoing filed this 20th
day of July, 2006, in the office of:

18 Felecia A. Rotellini
19 Superintendent of Financial Institutions
20 Arizona Department of Financial Institutions
21 ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

22 COPY mailed same date to:

23 Allen Reed
24 Administrative Law Judge
25 Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007
26

1 Craig A. Raby
2 Assistant Attorney General
3 Office of the Attorney General
4 1275 West Washington
5 Phoenix, AZ 85007

6 Robert Charlton, Assistant Superintendent
7 Joan Doran, Senior Examiner
8 Arizona Department of Financial Institutions
9 2910 N. 44th Street, Suite 310
10 Phoenix, AZ 85018

11 AND COPY MAILED SAME DATE by
12 Certified Mail, Return Receipt Requested, to:

13 Issam M. Habbo, Owner
14 The Money Source, L.L.C.
15 4383 North 75th Street, Suite 103
16 Scottsdale, AZ 85251

17 
18 959259; CPA06-126